



1/11/08

PAH-103

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Kjell Lindskog

: Examiner: Nam V. Nguyen

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Group Art Unit: 2612

Title: Method for Opening
Transportable Container

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Serial No. 10/502,018

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Filed: December 27, 2004

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Enclosed for filing please find a Reply Brief (in triplicate), responsive to the Examiner's Answer mailed on October 28, 2008 in connection with the present Appeal.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

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Reg. No. 27,954

12/19/08
(Date of Deposit)



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Mail Stop: Appeal Brief – Patents

REPLY BRIEF

This Reply Brief is responsive to the Examiner's Answer dated October 28, 2008 filed in connection with the present Appeal.

At page 9 of the Examiner's Answer, the Examiner contends that the arguments advanced by Applicant with regard to the Schesso Patent, namely that "a second key is stationarily positioned at a predetermined location", is not recited in Claim 1. Applicant respectfully disagrees. Independent Claim 1 expressly recites the step of "using a stationarily disposed key (20) together with the first key (10) for simultaneously completing the full code-set (ABCD) required to initiate deactivation of said alarm system and/or opening of the container (1)...". Since the second key is "stationarily disposed", it can only be at a fixed location. This is the location at which the first key is used in cooperation with the second key for simultaneously completing the full code-set to open the container. Therefore, according to the express

recitations in independent Claim 1, authorized access to the contents of the container can only occur at a predetermined location, namely the location at which the second key is “stationarily disposed”.

Starting at page 9, last paragraph and continuing on to page 10, first paragraph, the Examiner’s Answer states that the coder (40) disclosed by Schesso provides a second code input to release electromechanical locking means such as the solenoid of the container. Applicant respectfully disagrees with the Examiner’s conclusion. As the Examiner appears to concede, the container of the Schesso Patent is initially opened by a mechanical lock, and thereafter opened with an electro-mechanical key (see Examiner’s Answer, page 10 second full paragraph. Also see, Appeal Brief, page 7, last paragraph through page 8, first paragraph). The Schesso Patent does not teach or suggest that the mechanical key and the coder (40), assuming arguendo that the coder (40) constitutes a second key, must be used simultaneously, as expressly recited in independent Claim 1. In fact, there is nothing in the Schesso disclosure which precludes opening the mechanical lock before the electro-mechanical lock is opened by the coder.

More importantly, there is clearly no teaching or suggestion in the Schesso Patent that the coder (40), assuming arguendo that the coder 40 constitutes a second key, is “stationarily disposed”, as expressly recited in independent Claim 1. Applicant notes that clearly the mechanical lock (38) is also not “stationarily disposed” since it is movable with the container.

The arguments advanced at page 10, second and third full paragraphs of the Examiner’s Answer, conclude that the Schesso Patent requires two separate keys for authorized opening of the container. Applicant agrees with the Examiner’s conclusion to the extent that the two separate keys disclosed by Schesso are the keys for opening the mechanical type lock 38, and the coder 40 for opening the electro-mechanical locking means. However, Applicant respectfully disagrees that the Schesso Patent discloses a second key which is “stationarily disposed”, or that the first and second keys are required to be used simultaneously to open the container. In fact, the express disclosure of the Schesso Patent teaches that the mechanical

lock 38 can be opened without simultaneously opening the electro-mechanical locking means (see column 2, lines 47 – 51 of the Schesso Specification).

At page 11, first paragraph, the Examiner's Answer again states that the claims do not recite that second key is stationarily positioned at a predetermined location necessary for authorized opening of the container. Applicant again disagrees with this conclusion for the reasons noted above – namely, that independent Claim 1 expressly recites that a second key is “stationarily disposed” and cooperates with a first key to open the container. Therefore, independent Claim 1 expressly requires that the container be opened at a predetermined location – namely, the location at which the second key is “stationarily disposed”. Applicant respectfully submits that although Schesso discloses the need for two keys to be employed to open the container, it does not teach or suggest that the keys need to be employed simultaneously, or that one of the keys is “stationarily disposed” at the location at which the container is to be opened.

Page 11, last paragraph of the Examiner's Answer discusses the Lacomb et al. patent. However, the Examiner's Answer fails to address the specific argument made by the Applicant starting at page 9, last paragraph and continuing through page 10, first full paragraph of the Appeal Brief, that Lacomb et al. expressly teaches away from employing a second key which is “stationarily disposed”, at a location at which the container is to be opened. On the contrary, the express disclosure of this patent teaches against installing equipment at a predetermined location, but instead advocates opening the container at any location (Lacomb et al. Specification, column 4, lines 1 – 11). Thus, Lacomb et al. teaches directly against a positively recited recitation in the method defined by appealed independent Claim 1.

In conclusion, one of the references applied to reject independent Claim 1 (Schesso) fails to teach or suggest two positively recited features (that one key is stationarily disposed, and that the first and second keys must be used simultaneously), while the second applied reference (Lacomb et al.) teaches directly against a positively recited feature (that the second key is “stationarily disposed”) of the method defined by appealed independent Claim 1. Therefore, in

view of the diverse nature of the two applied references, there is clearly no motivation or suggestion in the prior art itself, or within the common knowledge of a person of ordinary skill in the relevant art, to combine these two references in any manner rendering appealed independent Claim 1 obvious.

For the reasons discussed herein, in the previously filed Appeal Brief, and during the prosecution of the patent application, Applicant respectfully submits that appealed independent Claim 1 is in condition for allowance, and that appealed dependent Claims 2 – 20 are allowable, at least for the same reasons as parent independent Claim 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark P. Stone', written in a cursive style.

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